

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4 \* \* \*

5 HOBART CORPORATION, et al.,

6 Plaintiffs,

7 vs.

CASE NO. 3:13-cv-00115-WHR

8 THE DAYTON POWER AND LIGHT

9 COMPANY, et al.,

10 Defendants.

11 \* \* \*

12 Deposition of RICHARD HART, Witness

13 herein, called by the Plaintiffs for

14 cross-examination pursuant to the Rules of Civil

15 Procedure, taken before me, Beverly W. Dillman, a

16 Notary Public in and for the State of Ohio, at

17 the offices of Sebaly, Shillito + Dyer, 1900

18 Kettering Tower, 40 North Main Street, Dayton,

19 Ohio, on Wednesday, September 25, 2013, at 1:03

20 o'clock p.m.

21 \* \* \*

## EXAMINATIONS CONDUCTED

Page

BY MR. ROMINE:.....5

BY MS. WRIGHT:.....43

## EXHIBITS MARKED

(Thereupon, Plaintiffs' Exhibit 1,  
Figure 3, Location of Chemical Storage,  
MONS01544, was marked for purposes of  
identification.).....22

(Thereupon, Plaintiffs' Exhibit 2,  
Inter-Office Correspondence dated 3-1-1983,  
with attachment, MONS01815-01819, was  
marked for purposes of identification.).....26

(Thereupon, Plaintiffs' Exhibit 3,  
Inter-Office Correspondence dated 7-22-1977,  
MONS01825-0127, was marked for purposes  
of identification.).....37

## 1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Langsam Stevens Silver &amp; Hollaender LLP

4 By: David E. Romine  
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Philadelphia, Pennsylvania 19103

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8 On behalf of the Defendant Cox Media  
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14 Krieg Devault

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19 On behalf of the Defendant P-Americas, Inc.:

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1 On behalf of the Defendant Sherwin-Williams:

2 Gallagher Sharp

3 By: Erik Wineland (via telephone)  
4 Attorney at Law  
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8 On behalf of the Defendant Waste  
9 Management of Ohio:

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11 By: William H. Harbeck (via telephone)  
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14 Suite 2350  
15 Milwaukee, Wisconsin 53202

16 \* \* \*

1 RICHARD HART

2 of lawful age, Witness herein, having been first  
3 duly cautioned and sworn, as hereinafter  
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MR. ROMINE:

7 Q. Good afternoon, Mr. Hart.

8 A. (Witness nodding head up and down.)

9 Q. My name is David Romine, and I'm a  
10 lawyer, and I represent three companies, Hobart  
11 Corporation, NCR Corporation and the Kelsey-Hayes  
12 Co., in a lawsuit that has to do with the South  
13 Dayton Dump.

14 Before we get started, I'm going to  
15 ask the lawyers in the room and on the phone to  
16 identify themselves for the court reporter.

17 MR. ROMINE: So, again, I'm David  
18 Romine, representing the plaintiffs.

19 MS. MEYER: I'm Jennifer Meyer,  
20 representing the plaintiffs.

21 MS. SMARDA: Jade Smarda,  
22 representing Cox Media Group.

23 MS. WRIGHT: Vicki Wright and Kay  
24 Dee Baird, for Pharmacia LLC.

25 MR. ROMINE: On the telephone?

1 MR. HARBECK: Bill Harbeck, for  
2 Waste Management of Ohio.

3 MR. WINELAND: Erik Wineland, on  
4 behalf of the Sherwin-Williams Company.

5 MR. ROMINE: Anyone else besides  
6 Erik and Bill?

7 (No response.)

8 MR. ROMINE: Okay.

9 BY MR. ROMINE:

10 Q. Mr. Hart, thank you for coming in  
11 today.

12 A. Okay.

13 Q. Have you ever had your deposition  
14 taken before?

15 A. No.

16 Q. I'm going to ask you some questions,  
17 and ask you to answer those questions. It's okay  
18 to ask me to repeat; or if you didn't hear or  
19 understand, I'll try to rephrase it.

20 The court reporter is taking down  
21 everything we say, so if you could wait for me to  
22 finish my question before answering, I'll wait  
23 for you to finish answering before I ask my next  
24 question, even if you may know what my question  
25 is going to be, that way the court reporter can

1 take it down more easily.

2 And this is not an endurance test,  
3 so if you need to get a drink of water, use the  
4 men's room, take a break and stand up, that's  
5 perfectly fine; is that okay?

6 A. That's fine.

7 Q. Okay. So, Mr. Hart, where do you  
8 live now?

9 A. Kettering, Ohio.

10 Q. And what's the address?

11 A. 160 Marchester Drive.

12 Q. In Kettering?

13 A. In Kettering.

14 Q. And when were you born?

15 A. I guess -- oh, when? 1932.

16 (Brief interruption.)

17 MR. ROMINE: Is someone joining the  
18 call?

19 MR. NES: Yes. Yes. Yes. This is  
20 Brad Nes, for P-Americas.

21 MR. ROMINE: We are just getting  
22 started.

23 MR. NES: Great. Thanks.

24 BY MR. ROMINE:

25 Q. And where were you born, Mr. Hart?

1 A. Richmond, Virginia.

2 Q. And did you attend high school in  
3 Richmond?

4 A. Yes, I did.

5 Q. And where was that high school?

6 A. Manchester.

7 Q. And when did you graduate?

8 A. 1950.

9 Q. And did you attend college right  
10 after graduating from high school?

11 A. Yes, I did.

12 Q. And where did you go to college?

13 A. Initially, I went to Richmond  
14 Professional Institute.

15 Q. And it sounds like you said  
16 originally you went to Richmond Professional  
17 Institute?

18 A. Two years.

19 Q. Okay. And then after that?

20 A. I transferred to Virginia  
21 Polytechnic Institute.

22 Q. Do people sometimes call that  
23 Virginia Tech?

24 A. Yes, they do.

25 Q. Okay. And did you graduate from



1 Virginia Tech?

2 A. Yes, I did -- not on schedule.

3 Q. When -- when did you graduate from  
4 Virginia Tech?

5 A. I got my B.S. in '57 and my M.S. in  
6 '58. There was two years of Army in between.

7 Q. Okay. And what was your B.S. in?

8 A. Chemical engineering.

9 Q. How about your -- oh, I'm sorry.  
10 How about your B.A. -- I'm sorry, how about your  
11 M.S. -- I got confused there.

12 You got your B.S. in '57?

13 A. Right.

14 Q. And you got another degree in '58?

15 A. Right.

16 Q. And the '58 was M.S.?

17 A. Right.

18 Q. Okay. I'm sorry. And what was your  
19 M.S. in?

20 A. Chemical engineering.

21 Q. So both degrees were chemical  
22 engineering?

23 A. Right.

24 Q. Okay. And you mentioned something  
25 about taking two years off in between?

1 A. Yes.

2 Q. Okay.

3 A. I went in the Army in November of  
4 '54 and got out in September of '56.

5 Q. Were you able to -- to go to school  
6 in that fall semester of 1956?

7 A. No.

8 Q. So you -- maybe you started up again  
9 in the winter of '57?

10 A. Well -- oh, I'm sorry. I'm sorry.  
11 I am thinking September. Yes, I did go in  
12 September of '56.

13 Q. Okay. And did you have any --  
14 any -- after high school, did you have any  
15 schooling other than the Richmond Professional  
16 Institute and Virginia Tech?

17 A. No.

18 Q. Okay. And did you get a job after  
19 graduating from Virginia Tech?

20 A. Yes, I did.

21 Q. And what was that?

22 A. It was Monsanto Chemical Company in  
23 St. Louis.

24 Q. And was that Monsanto's headquarters  
25 at the time in St. Louis?

1 A. Yes, it was.

2 Q. And what was your job at Monsanto?

3 A. Well, we had three plants in St.  
4 Louis. My first job was at the Queeny plant as a  
5 tech service employee, which ultimately turned  
6 out to be a maintenance supervisor and production  
7 supervisor.

8 Q. Did you say that was the Queeny  
9 plant?

10 A. Right.

11 Q. Okay. And how do you spell that?

12 A. Q U E E N Y.

13 Q. Okay. And after you worked at the  
14 Queeny plant, did you work at another Monsanto  
15 facility in St. Louis?

16 A. Yes, across the river in Illinois,  
17 Krummick plant.

18 Q. Can you spell that?

19 A. Krummick, K R U M M I C K, I believe  
20 is right.

21 Q. Is that in the City of East St.  
22 Louis or somewhere else?

23 A. Actually, it was in the -- it was in  
24 the town of Monsanto. They -- I guess it was a  
25 spot in the road until they named it after the

1 company.

2 Q. Okay. Was it close to East St.  
3 Louis, or not really?

4 A. Well, yeah, it was close enough.

5 Q. Okay. And then after the Krummick  
6 plant, did you work for another Monsanto  
7 facility?

8 A. Yes, I did, back across the river at  
9 South St. Louis, it was called the Carondelet  
10 plant.

11 Q. And could you spell that?

12 A. I knew you were gonna ask.

13 C A R O N D E L E T.

14 Q. Okay.

15 MR. HARBECK: David, this is Bill  
16 Harbeck. I'm just wondering, again, maybe if the  
17 microphone is as close as you can get? I can  
18 hear you fine, but the witness is kind of fading  
19 in and out a little bit.

20 MR. ROMINE: Well, we will do it  
21 again.

22 MS. WRIGHT: I just lost him again.

23 (Brief interruption.)

24 MR. ROMINE: Okay. So we got all  
25 three lawyers who had called in on the telephone

1 are still there?

2 (Affirmative responses.)

3 BY MR. ROMINE:

4 Q. Okay. So, Mr. Hart, before the  
5 break there you had told me about the Queeny  
6 plant, the Krummick plant and the Carondelet  
7 plant?

8 A. Right.

9 Q. Am I pronouncing those correctly?

10 A. About as close as anybody is gonna  
11 get.

12 Q. Okay. And so -- and you had told me  
13 that you were at the Queeny plant, you had been  
14 a -- in technical service, then a maintenance  
15 supervisor, and then a production supervisor?

16 A. Right.

17 Q. And if you could, tell me what your  
18 job was at the Krummick plant.

19 A. The whole time I was at the Krummick  
20 plant I was in tech service, and a group leader  
21 in that department.

22 Q. And how about the Carondelet plant?

23 A. At the Carondelet plant I was the  
24 plant maintenance engineer.

25 Q. And what did these plants do?

1 A. Primarily, manufactured chemicals.

2 Q. Was there -- what kind of chemicals?

3 What was the major product, if there was one?

4 A. Well, there were several at the  
5 Queeny plant, aspirin being one of them, but  
6 mostly organic chemicals.

7 Q. Like, for example, fertilizer, or  
8 not necessarily?

9 A. No.

10 Q. Okay. Could you give me an example  
11 of what one of the products is that was organic?

12 A. Maleic anhydride, and aspirin,  
13 Bisphenol A. Let's see, maleic -- well, that's  
14 what happens when you get old, you forget things.

15 Q. No problem. Have you -- have you  
16 heard the distinction between bulk chemicals and  
17 specialty chemicals?

18 A. Oh, yeah.

19 Q. Was this bulk chemicals or specialty  
20 chemicals?

21 A. It was primarily specialty  
22 chemicals.

23 Q. Okay.

24 A. It was what we refer to as a city  
25 operation. There really wasn't anything

1 particularly odorous about it.

2 Q. A city operation meaning you could  
3 be in or near a city and not bother the  
4 residents?

5 A. I didn't say that.

6 Q. Well, why was it called a city  
7 operation?

8 A. Because it wasn't like the Krummick  
9 plant.

10 Q. Okay. And what was the Krummick  
11 plant?

12 A. Sulfuric acid, phosphoric acid,  
13 phosphorus oxychloride; just some --  
14 nitrobenzenes -- just some bad stuff.

15 Q. And the Krummick plant, was that  
16 more specialty chemicals or bulk chemicals?

17 A. That would have been bulk chemicals.

18 Q. Okay. And the -- when you were  
19 talking about the organic specialty chemicals,  
20 that was -- did that apply to the Carondelet  
21 plant?

22 A. No, actually, it did not. The  
23 Carondelet plant was a different operation.  
24 Everything that we made there was a white powder.  
25 A lot of it went into like baking powder or

1     detergents. We made one product which the food  
2     entry, inserted into ham to absorb water, and I  
3     don't know which one that was.

4                     We did eventually, while I was  
5     there, we built a phosphoric acid plant, because  
6     prior to that we had been shipping it from across  
7     the river from the Krummick plant, and so we  
8     manufactured phosphoric acid and used it in the  
9     plant.

10            Q.     And after you were plant maintenance  
11     engineer at the Carondelet plant --

12            A.     Yes.

13            Q.     What years was that, approximately?

14            A.     Whew, '69 to '75.

15            Q.     And in 1975, did you get another job  
16     within the Monsanto organization?

17            A.     Yes. I was -- I transferred to  
18     Dayton. Now, we had a -- it was a subsidiary of  
19     Monsanto called Monsanto Research Corporation.  
20     And so the plant here was under that banner,  
21     Monsanto Research Corporation, so it was not a  
22     direct part of Monsanto Company.

23                     And when I started out, I said  
24     Monsanto Chemical Company. And the name changed  
25     to Monsanto Company, I don't know, ten or 15



1 years after that, but I'm not sure when.

2 Q. Okay.

3 A. But it was the same company.

4 Q. Okay. So when you -- when you  
5 started in approximately 1958, your employer was  
6 known as Monsanto Chemical Company?

7 A. Right.

8 Q. And then at some point it changed  
9 its name to Monsanto Company?

10 A. Right.

11 Q. Okay. And in 1975, you worked for a  
12 related company known as Monsanto Research  
13 Company?

14 A. Right.

15 Q. And that was in connection with your  
16 move to Dayton?

17 A. Right.

18 Q. And what was the -- did the Dayton  
19 facility have a name?

20 A. Not really. Just -- we called it  
21 The Dayton Lab.

22 Q. The Dayton Lab?

23 A. Right. And that was because most of  
24 the work was small-scale, and we -- there was no  
25 large industrial operation.

1 Q. And what was your job at The Dayton  
2 Lab?

3 A. Initially, I was the plant -- hmm,  
4 good question. Well, I was in charge of -- of  
5 the tech services and the small manufacturing  
6 facility that we had, and also maintenance of the  
7 location.

8 Q. You talked about a small  
9 manufacturing facility?

10 A. Right.

11 Q. Was that -- another word for that  
12 the pilot plant?

13 A. Yes.

14 Q. Okay. And what is tech services? I  
15 mean, what does that mean?

16 A. Well, if we had to do any  
17 alterations to the facilities, I would have been  
18 in charge of the construction alterations. It  
19 was tech service in that respect; unlike the  
20 other plants, it would have been logistical  
21 responsibility.

22 Q. Okay. And how did you -- how long  
23 did you work for Monsanto Research Corporation at  
24 The Dayton Laboratory?

25 A. Up until June 1st, 1990.

1 Q. And what happened then?

2 A. I retired.

3 Q. And did you get any employment after  
4 you retired from Monsanto Research Company?

5 A. Only what my wife gives me.

6 Q. And where -- where in Dayton was The  
7 Dayton Laboratory located?

8 A. 1515 Nicholas Road.

9 Q. You mentioned that The Dayton  
10 Laboratory had a small manufacturing facility?

11 A. That's correct.

12 Q. And was -- was the idea that the  
13 products made at this small facility would --  
14 would -- was it anticipated that these would be  
15 sold to the marketplace?

16 A. Not necessarily. It was -- it was  
17 really a facility for Monsanto Company for  
18 scale-up. In other words, if the research guys  
19 in St. Louis came up with something, and they  
20 wanted to make, instead of 25 pounds, 250 pounds  
21 or 2,500 pounds, why, they would come to us with  
22 the process to see if it would work in larger  
23 quantities.

24 We also had some contracts with the  
25 government, NIH primarily; we did some research

1 and development for them. And we also produced  
2 anticancer drugs to be used in Bethesda for the  
3 patients that were there dying of cancer. We  
4 made several. The primary one that I remember  
5 was methotrexate, but there were some others, and  
6 I don't recall the names.

7 Q. Okay. And when you say the NIH,  
8 that's the National Institutes of Health?

9 A. Right.

10 Q. Okay. And was -- is that  
11 chemotherapy or is that something different?

12 A. Chemotherapy.

13 Q. About how many employees did The  
14 Dayton Lab have when you got there in about 1975?

15 A. Right around 400.

16 Q. How about in 1990?

17 A. Well, it had undergone a lot of  
18 changes, and I guess it may have been a hundred.

19 Q. Was -- were there times when the  
20 number of employees got above 400?

21 A. There may have been, but I don't  
22 recall.

23 Q. Was there -- was it more of a steady  
24 drop-off of employees, or was there an event that  
25 happened that made the number of employees go

1 down?

2 A. There was an event.

3 Q. Okay. And what was that?

4 A. Well, we came under the protection  
5 of Monsanto Company, and they promptly got rid of  
6 two-thirds of the business we were in. And we  
7 were involved with Monsanto Agricultural Company,  
8 and they were the -- they were the daddy at that  
9 point.

10 Q. Okay. So there was some corporate  
11 reorganization going on?

12 A. Right.

13 Q. Okay. And when was that?

14 A. Well, that would have been like  
15 primarily in the '80s, mid-'80s.

16 Q. Were you around at any time when  
17 Pharmacia Corporation was -- was involved?

18 A. That was after I retired.

19 Q. Okay. So you never worked for  
20 Pharmacia, Inc.?

21 A. No.

22 Q. Have there been any reunions of  
23 Dayton Lab employees since you left?

24 A. Well, they didn't tell me.

25 Q. Okay. So you have never been to

1 any?

2 A. No.

3 (Thereupon, Plaintiffs' Exhibit 1,  
4 Figure 3, Location of Chemical Storage,  
5 MONS01544, was marked for purposes of  
6 identification.)

7 BY MR. ROMINE:

8 Q. Mr. Hart, I'm showing you what I  
9 have marked as Exhibit 1. And the -- it's a  
10 diagram from 1992. But I'm going to ask you if  
11 you recognize anything from this diagram as  
12 being -- as corresponding to what you remember  
13 from your work at the Dayton Lab.

14 A. Well, some of it, yeah.

15 Q. Okay. What -- what do you  
16 recognize?

17 A. Well, Building 1.

18 Q. Okay.

19 A. The guardhouse, Building 20, and I  
20 guess Building 23. I'm assuming that was the  
21 warehouse.

22 Q. And where did you work?

23 A. Building 1.

24 Q. Building 1?

25 A. Yes.

1 Q. Okay. Earlier today we were talking  
2 to Mr. Alan Wurstner.

3 A. Yeah.

4 Q. And he had -- he had mentioned that  
5 sort of on the lower left part of this diagram,  
6 closer to the railroad tracks, there had been  
7 some buildings in that area?

8 A. Right.

9 Q. Were those buildings in existence  
10 when you began working for Monsanto at the Dayton  
11 Lab in 1975?

12 A. Yes.

13 Q. Were they there when you left in  
14 1990?

15 A. No.

16 Q. What happened to them?

17 A. We tore them down.

18 Q. Why?

19 A. Got out of the business.

20 Q. And what business was that?

21 A. That was not under my control, but  
22 it was a nuclear source business.

23 Q. What was in Building 1?

24 A. Primarily laboratories and offices  
25 and conference rooms, maintenance shop. That's

1 all I'm thinking.

2 Q. How about Building 20?

3 A. That was the pilot plant. And also  
4 Building 22, that was the boiler room.

5 Q. 22 was the boiler room?

6 A. Yeah.

7 Q. Okay.

8 A. Building 20 was the -- what we call  
9 the pilot plant, and that's where we made --  
10 manufactured the chemicals of various sorts; but  
11 not -- not big -- big amounts.

12 Q. And I think you mentioned that  
13 Building 23 was the warehouse?

14 A. I -- yeah, probably. Let me think  
15 here. Yeah, I'm pretty sure that that's the  
16 warehouse.

17 Q. Was there any other use for Building  
18 23 other than the warehouse?

19 A. No.

20 Q. What was stored in the warehouse?

21 A. Whatever we made in the pilot plant  
22 before we shipped it out.

23 Q. So that was for finished product  
24 then?

25 A. Right.



1 Q. Was it -- how about for raw  
2 material?

3 A. There may have been. I don't  
4 recall.

5 Q. Okay. Was there another building  
6 that was dedicated to raw materials?

7 A. No. We never really had big  
8 inventories of raw materials.

9 Q. What is The Mound Laboratory?

10 A. Well, that was part of Monsanto  
11 Research Corporation. I'm sorry, the question is  
12 what is or what was?

13 Q. Yeah.

14 A. Well, they manufactured nuclear  
15 materials for the -- the Department of Defense.

16 Q. Did you ever work there?

17 A. No.

18 Q. Did you ever visit there?

19 A. Yes.

20 Q. About how many times?

21 A. Oh, less than a dozen.

22 Q. Why?

23 A. Why? I had no business there.

24 Q. No, I mean, why did you visit there?

25 A. Well, in some cases it was to

1 attend -- maybe attend a class; and the other  
2 reason might have been to discuss mutually --  
3 mutual problems.

4 Q. Okay. So someone higher up in  
5 Monsanto Research Corporation said go to The  
6 Mound Laboratory for one reason or another, and  
7 you went?

8 A. Right.

9 Q. But it was never your regular place  
10 of work?

11 A. No. I had to be cleared, and I also  
12 had to have somebody puppy-dog around after me  
13 while I was there, so --

14 Q. You had to be cleared because it was  
15 classified --

16 A. Classified.

17 Q. -- things going on there?

18 A. Right.

19 (Thereupon, Plaintiffs' Exhibit 2,  
20 Inter-Office Correspondence dated 3-1-1983, with  
21 attachment, MONS01815-01819, was marked for  
22 purposes of identification.)

23 BY MR. ROMINE:

24 Q. So, Mr. Hart, have you had a chance  
25 to take a look at Exhibit 2?

1 A. Yes.

2 Q. Okay. Have you seen this before?

3 A. Not that I recall.

4 Q. Okay. And who is D. L. Zanders?

5 A. Well, he was part of the operation  
6 that -- where we had a lot of government  
7 contracts to do a lot of research for the  
8 government. I can't really -- I know Don -- or  
9 knew him. I think he is not with us anymore.  
10 But, anyway, in Building 1, when I mentioned we  
11 had labs, there was a lot of small-scale activity  
12 taking place, things like hood work, that small.

13 And I would assume from this, but I  
14 don't know it to be true or not, that where they  
15 talked about very large quantities of waste, it  
16 probably was generated in the pilot plant; where  
17 they talk about small amounts, it was throw-away  
18 stuff in the laboratories.

19 Q. Okay. So Mr. Zanders was a Monsanto  
20 Research Corporation employee?

21 A. Yes, he was.

22 Q. And he worked at The Dayton Lab?

23 A. Yes, he did.

24 Q. Okay. How about G. L. Jesse?

25 A. Oh, Gene was -- he never was part

1 of -- of Monsanto Research Corporation. He was  
2 a plant manager at a couple of our plants, and  
3 he -- at this point, he was -- he was at the  
4 general office in St. Louis, headquarters. And  
5 what his job was at that time, I have no idea.

6 Q. Okay. And when you say Gene, you're  
7 referring to Mr. Jesse?

8 A. Right.

9 Q. And you met him? You have met Mr.  
10 Jesse?

11 A. Oh, I know him.

12 Q. Yeah. Do you keep in touch with  
13 him?

14 A. I don't keep in touch with anyone.

15 Q. I'm going to ask you about a couple  
16 more names on the -- on the memo here. W. B.  
17 Witmer?

18 A. Well, this -- let's see what the  
19 date is. Well, he was the site manager at this  
20 time.

21 Q. And when you say the site manager,  
22 that's The Dayton Laboratory?

23 A. Right.

24 Q. Was he the boss, the highest ranking  
25 person?

1 A. At that time, yes.

2 Q. Okay. How about the next name? I'm  
3 not gonna try to pronounce it.

4 A. Ctvrtnicek.

5 Q. Ctvrtnicek?

6 A. I think he was a group leader.

7 Q. A group leader?

8 A. Yeah.

9 Q. Do you remember what group?

10 A. No.

11 Q. Okay. How about R. M. Scott?

12 A. Well, okay, Royce was -- he was in  
13 St. Louis at this time.

14 Q. Okay.

15 A. And I don't -- I'm not sure what his  
16 job was.

17 Q. And when you say Royce, you're  
18 referring to Royce Scott?

19 A. Right.

20 Q. Did he ever work at The Dayton Lab?

21 A. Oh, yeah.

22 Q. During what time period?

23 A. Well, before I became the plant  
24 manager and after I retired, two periods of time.

25 Q. Two different periods?

1 A. Right.

2 Q. Okay. And how about B. J.  
3 Gilhausen?

4 A. I have no idea.

5 Q. Okay. So, again, correct me if I'm  
6 wrong, but it seems like you -- during the course  
7 of your work, you -- you met Mr. Witmer, Mr.  
8 Ctvrtnicek and Mr. Scott at some point?

9 A. Oh, yeah.

10 Q. Okay. But not Mr. Gilhausen?

11 A. No.

12 Q. Okay. Reading the first page of  
13 this memo written by Mr. Zanders, it says: In  
14 response to your request, the following is a  
15 history of open (current) and closed (no longer  
16 used by The Dayton Laboratory) disposal sites,  
17 and then it goes on. Were you aware of any  
18 requests from Mr. Jesse, or anyone else at  
19 Monsanto headquarters, about disposal sites?

20 A. I don't recall any.

21 Q. Okay. Were you involved in waste  
22 disposal as part of your job at The Dayton  
23 Laboratory?

24 A. Only to the extent if something went  
25 wrong, they would blame it on me.

1 Q. Okay. Did they blame something on  
2 you?

3 A. No.

4 Q. Okay. You mentioned you were plant  
5 manager for some period?

6 A. '84 to '88.

7 Q. Okay. Was that -- was that the same  
8 position that Mr. Witmer held?

9 A. Yes.

10 Q. Okay. When you were plant manager,  
11 how was the waste disposed of, the waste that was  
12 generated by The Dayton Laboratory?

13 A. That's difficult for me to answer  
14 because I only got involved in -- in things that  
15 went on at the plant if there was a problem. If  
16 there was no problem, I didn't get involved in it  
17 to make one. So it pretty much -- when I came on  
18 site, that was all a routine operation; I did not  
19 get involved.

20 Q. Did The Dayton Lab hire a hauler to  
21 come and take away the trash, or did Monsanto  
22 have its own trucks that would take the trash  
23 somewhere?

24 A. I don't recall, but I believe it was  
25 a contract. Monsanto was not a big presence in

1 the area, so we did not have trucks.

2 Q. If you look back at the first  
3 exhibit, Exhibit 1 --

4 A. Yes.

5 Q. -- the diagram, can you point out to  
6 me where the trash was when the trucks came to  
7 pick it up?

8 A. Oh, well, let's see. Probably in  
9 the area of Area 13 and Area 12.

10 Q. The areas that are shown on the --

11 A. On this map, yes.

12 Q. Right. Okay. When you say  
13 probably, do you remember a dumpster or some kind  
14 of trash container in that area?

15 A. Yeah.

16 Q. Okay. Any -- any other places?

17 A. Well, probably Building 12, which  
18 was a small warehouse before they built the big  
19 one.

20 Q. Okay.

21 A. And it did not contain -- it  
22 wasn't -- it wasn't big enough to contain very  
23 much. But at some point, probably after -- oh,  
24 I'd say around 1987 or '88, we got rid of a lot  
25 of chemicals. And so we had someone come in, and



1 they repackaged all the chemicals on site that  
2 were no longer used or needed in Building 12.  
3 Who -- where that went, I don't know.

4 Q. Was it your impression that those  
5 were being repackaged for reuse or disposal?

6 A. Repackaged to get rid of.

7 Q. For disposal?

8 A. Right.

9 Q. But you don't know where that went?

10 A. No.

11 Q. Who was it that came and took it?

12 A. I don't know that either.

13 Q. Okay. I want to go back now to  
14 Exhibit 2, and I want to ask you about the second  
15 page. It's numbered 1816 at the bottom.

16 A. Okay.

17 Q. And about halfway down the Page  
18 1816, it -- there is a notation entry regarding  
19 the South Dayton Dump and Landfill, Dayton, Ohio.

20 A. Yes.

21 Q. And then if you look to the right on  
22 the same page regarding that same entry, it looks  
23 like -- or Mr. Zanders is noting that there were  
24 a quantity less than 800 pounds of inorganics  
25 disposed of at the South Dayton Landfill in

1 around 1976 or 1977?

2 A. Right.

3 Q. Okay. Aside from reading this memo,  
4 are you aware of the disposal of these inorganics  
5 at the South Dayton Dump and Landfill that Mr.  
6 Zanders is writing about here?

7 A. No.

8 Q. Are you aware of any disposal by  
9 Monsanto Research Corporation at the South Dayton  
10 Dump and Landfill, other than this notation here?

11 A. Would you repeat that question?

12 Q. Sure. Are you aware of any disposal  
13 of any waste by Monsanto Research Corporation at  
14 the South Dayton Dump and Landfill?

15 A. Well, I knew that we used it, but  
16 specifically what was going in it, I have no  
17 knowledge.

18 Q. When you say you used it, how do you  
19 know that Monsanto Research Corporation used the  
20 South Dayton Dump?

21 A. Saw the truck come in and go out.

22 Q. What -- what truck go in and go out  
23 of where?

24 A. Of the plant.

25 Q. And it was from Monsanto or --

1 A. Yeah.

2 Q. How do you know it was Monsanto  
3 waste that was in it?

4 A. Well, that's a good question. Maybe  
5 I don't know.

6 Q. Okay. Did you ever see the same  
7 truck leave from the plant and go to the South  
8 Dayton Dump site?

9 A. Well, I saw a truck go out the gate,  
10 and I didn't follow it, so I don't know where it  
11 went.

12 Q. Okay. Do you know -- do you know of  
13 other dumps or places in the Dayton area where  
14 the Monsan -- the Dayton Lab waste went?

15 A. No. The only one I'm aware of is  
16 the one we're talking about.

17 Q. South Dayton?

18 A. Right.

19 Q. Yeah. I'm trying to explore,  
20 though, a little bit where your knowledge comes  
21 from. Is it just so close that you assumed that  
22 it went there, or you had some dealings with the  
23 South Dayton Dump somehow?

24 A. I didn't -- I had no dealings with  
25 the South Dayton personally.

1 Q. Okay.

2 A. No dealings with the South Dayton  
3 Dump site. I was -- probably the purchasing  
4 people were involved with that.

5 Q. And who were they?

6 A. Well, there were several while I was  
7 there. You see all this white hair? I have  
8 forgotten much of what I used to know.

9 Q. (Indicating.)

10 A. Yeah, but you're still working.

11 Q. Okay. That's okay. If it comes to  
12 you -- if it comes to you, let me know.

13 A. I guess the only one I can really  
14 remember is Norman Miller. He was involved.

15 Q. Norman Miller?

16 A. Yeah. He was in purchasing.

17 Q. Okay.

18 A. But we had several people in that  
19 department that either went somewhere else for a  
20 better job or just went.

21 Q. Right. I understand. When you were  
22 working for The Dayton Lab, was it your  
23 understanding that part of Mr. Zanders' job was  
24 disposing of -- of waste chemicals?

25 A. No.

1           Q.    We mentioned the South Dayton Dump a  
2   couple times.  Where is that?

3           A.    I think it's off Dryden Road, south  
4   of the river.

5           Q.    And when you say the river, that's  
6   the Miami River?

7           A.    I think that's what they call it,  
8   yeah.

9           Q.    Okay.

10                   (Thereupon, Plaintiffs' Exhibit 3,  
11   Inter-Office Correspondence dated 7-22-1977,  
12   MONS01825-0127, was marked for purposes of  
13   identification.)

14                   THE WITNESS:  (Examining document.)

15   BY MR. ROMINE:

16           Q.    Have you had a chance to look at  
17   Exhibit 3?

18           A.    Yes.

19           Q.    Do you remember seeing this memo  
20   when you worked at Monsanto Research Corporation?

21           A.    Well, I'm sure I did.  I see I'm  
22   carbon-copied on it, but I don't recall at this  
23   point seeing it.

24           Q.    Fair enough.  Who is Thomas D. Beal?

25           A.    He was one of the -- he was a safety

1     guy on site.

2             Q.     How about George A. Richardson?

3             A.     He was an organic chemist who -- he  
4     would have had knowledge of -- of the chemicals  
5     we are talking about; not Beal, necessarily.

6             Q.     And how -- how about J. E. Guthrie?

7             A.     Guthrie worked for me, and --  
8     directly. And he was not a knowledgeable  
9     chemist, as such. In fact, I don't even think  
10    John had a degree in anything, but -- and to be  
11    honest with you, I don't know why he is even on  
12    this list.

13            Q.     Okay. How about E. E. Hardy?

14            A.     Oh, he was -- he was the lab  
15    director when I first arrived, and I've forgotten  
16    when he left. He probably left prior to '80, but  
17    I wouldn't swear to it.

18            Q.     Okay. And are all the people named  
19    on this memo, they all worked in Dayton?

20            A.     Yes.

21            Q.     Okay. So there is no one here being  
22    copied to St. Louis?

23            A.     That is correct.

24            Q.     Okay. I want to get -- ask you a  
25    question that's gonna be based on this first

1 sentence here. The objective of this report is  
2 to outline the method for disposal of  
3 continuously generated chemical waste from The  
4 Dayton Laboratory. And my question is: When you  
5 worked there, in terms of disposing of the  
6 chemicals, was there different treatment for  
7 continuously generated chemical waste, as opposed  
8 to haphazardly or ad hoc generated chemical  
9 waste?

10 A. I can't answer that.

11 Q. Okay. And then if you look at  
12 the -- the second page, 1826?

13 A. Right.

14 Q. It looks like there is a flow chart  
15 of how the authors of the memo anticipated they  
16 were going to dispose of this waste. And one of  
17 the steps is off-site disposal sites located and  
18 inspected. And my question to you is: Did you  
19 play any role in locating and inspecting any  
20 off-site disposal sites?

21 A. No.

22 Q. Did anybody that you know of, from  
23 your knowledge of working there, did anybody do  
24 that?

25 A. Probably, but I have no knowledge of

1     who it was.

2             Q.     Okay.  So somebody probably did it,  
3     you just don't know who -- you just don't  
4     remember who it was or you don't know who it was?

5             A.     Right.

6             Q.     Okay.  Was that a topic that you  
7     talked about with any of these people that are  
8     shown on the memo?

9             A.     Not unless there was a problem.

10            Q.     Okay.  But was it a problem, and you  
11    have memory of talking about it?

12            A.     Nope.

13            Q.     Okay.  It looks like, if I'm reading  
14    this memo correctly, that Mr. Beal and Mr.  
15    Richardson are proposing some kind of process for  
16    deciding how -- how and where to dispose of  
17    chemical waste.  Was this -- this process that  
18    they outlined here on Page 1826, was that process  
19    followed?

20            A.     I can't answer that.  I had no idea  
21    this even existed.

22            Q.     Okay.

23            A.     Just looking at it, I'm assuming  
24    that Hardy must have asked the question and this  
25    is the answer.



1           Q.    I see.  So you're saying -- you're  
2   saying that -- okay.

3                    So Hardy is asking Beal and  
4   Richardson, we need to figure out what to do; and  
5   this is Beal and Richardson saying this is how we  
6   are gonna do it?

7           A.    Right.

8           Q.    Okay.  And why -- what was the  
9   nature of your job that would have -- that Beal  
10   and Richardson would have thought that you were  
11   necessary to cc on it?

12           A.    Well, as I stated previously, I was  
13   the -- involved in the logistics of running the  
14   place.

15           Q.    Okay.

16           A.    So that would have fallen under  
17   that.

18                   MR. ROMINE:  Okay.  Off the record.

19                    (Recess taken.)

20                   MR. ROMINE:  Back on the record.

21   BY MR. ROMINE:

22           Q.    Mr. Hart, you had mentioned that you  
23   were in the Army a couple years from 1954 to  
24   1956?

25           A.    That's correct.

1 Q. And where were you stationed?

2 A. Hawaii; almost embarrassed to say  
3 that, but --

4 Q. No problem. You were there -- you  
5 were there the whole -- basically, the entire two  
6 years?

7 A. Well, other than basic training in  
8 South Carolina, that's where I was assigned.

9 Q. Okay. Okay. And you had also  
10 mentioned that there were approximately 400  
11 employees at The Dayton Lab when you got there?

12 A. Yes.

13 Q. But then when you left, it had  
14 dwindled to somewhere around a hundred, roughly?

15 A. Right.

16 Q. Was that -- was that due more to a  
17 decrease in the government contract work or  
18 the -- the pilot plant work, or can you not --  
19 not split it up that way?

20 A. Well, I could be a smart ass and say  
21 it was due to people in St. Louis thinking they  
22 knew more than they really did, but it was  
23 primarily the plan from St. Louis to get rid of  
24 the site.

25 Q. Okay.

1 A. Which they ultimately did.

2 Q. Okay. And -- and the -- and correct  
3 me if I'm wrong, but the, I guess,  
4 decommissioning of the nuclear part of the  
5 facility was part of that process?

6 A. Yes.

7 Q. Okay. Do you know where any of the  
8 waste from the nuclear part of the plant went?

9 A. Well, I -- I may know, but I'm not  
10 sure I do. And I -- as I recollect, I think it  
11 went to Hanford, Washington, before it got  
12 closed.

13 Q. Okay. Some kind of nuclear waste  
14 facility?

15 A. Hanford, Washington, yeah. But I --  
16 you know, I wouldn't stake my life on that.

17 Q. I understand.

18 MR. ROMINE: I think that's all the  
19 questions I have. I pass the witness.

20 MS. WRIGHT: Okay. I have a few.

21 THE WITNESS: Okay.

22 DIRECT EXAMINATION

23 BY MS. WRIGHT:

24 Q. A little earlier in your deposition,  
25 Mr. Hart, you testified that South Dayton Dump

1 was a site that you were aware of?

2 A. Right.

3 Q. How were you aware of South Dayton  
4 Dump?

5 A. I have heard people talk.

6 Q. What would they say?

7 A. I don't recall.

8 Q. You don't recall?

9 You also testified that you saw  
10 trucks leaving the site, but you did not know  
11 where they went; is that correct?

12 A. That is correct.

13 Q. So just to be clear that I  
14 understand your testimony correctly, you do not  
15 have any firsthand knowledge of trucks leaving  
16 The Dayton Lab and going to South Dayton Dump; is  
17 that true?

18 A. That's correct. That's correct. If  
19 I said anything other than that, it would have  
20 been an assumption.

21 Q. Okay. There is a joke about that,  
22 but I won't put it on the record.

23 A. I know the joke.

24 Q. You know the joke.

25 I just have one more question. Do

1 you have any reason not to believe that any  
2 nuclear-contaminated or waste -- radioactive  
3 waste was not properly disposed of?

4 A. I think it was all properly disposed  
5 of.

6 MS. WRIGHT: That's all I have got.

7 MS. SMARDA: I have no questions on  
8 behalf of Cox Media Group.

9 MR. ROMINE: Anyone on the telephone  
10 have any questions for Mr. Hart?

11 MR. HARBECK: This is Bill Harbeck.  
12 No questions.

13 MR. NES: This is Brad Nes. No  
14 questions.

15 MR. WINELAND: Erik Wineland. No  
16 questions.

17 MR. ROMINE: I think we are done.

18 THE NOTARY: And signature?

19 MS. WRIGHT: If you send it to me,  
20 I'll take care of that.

21 (Thereupon, the deposition was  
22 concluded at 2:15 o'clock p.m.)  
23  
24  
25

1                   I, RICHARD HART, do hereby certify  
2   that the foregoing is a true and accurate  
3   transcription of my testimony.

4  
5  
6                   — — — — —

7  
8                   Dated — — — — —

1       STATE OF OHIO                    )

2       COUNTY OF MONTGOMERY )       SS: CERTIFICATE

3               I, Beverly W. Dillman, a Notary Public  
4       within and for the State of Ohio, duly  
5       commissioned and qualified,

6               DO HEREBY CERTIFY that the above-named  
7       RICHARD HART, was by me first duly sworn to  
8       testify the truth, the whole truth and nothing  
9       but the truth.

10              Said testimony was reduced to writing by  
11       me stenographically in the presence of the  
12       witness and thereafter reduced to typewriting.

13              I FURTHER CERTIFY that I am not a  
14       relative or Attorney of either party, in any  
15       manner interested in the event of this action,  
16       nor am I, or the court reporting firm with which  
17       I am affiliated, under a contract as defined in  
18       Civil Rule 28(D).

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1                   IN WITNESS WHEREOF, I have hereunto  
2   set my hand and seal of office at Dayton, Ohio,  
3   on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

4  
5                   \_\_\_\_\_  
6                   BEVERLY W. DILLMAN, RPR, CRR  
7                   NOTARY PUBLIC, STATE OF OHIO  
8                   My commission expires 3-6-2017  
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